

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2029

IN THE MATTER OF:

Served September 6, 1979

Application of D. C. MEDICAID )  
TRANSPORTATION, INC., for a Certifi- )  
cate of Public Convenience and )  
Necessity to Perform Special )  
Operations )

Application No. 968

Docket No. 354

By application filed August 7, 1979, D. C. Medicaid Transportation, Inc. (DCMT), seeks reconsideration of Order No. 2009, served July 10, 1979, and incorporated by reference herein. In that order, the Commission dealt with four consolidated cases remanded by the United States Court of Appeals for the District of Columbia Circuit for further proceedings in accordance with the Court's memorandum. Those cases included Application No. 968 filed by DCMT in which DCMT was found not fit to operate, within the meaning of Title II, Article XII, Section 4(b) of the Compact. 1/

On remand the Court stated that the Commission ". . . has latitude to accept material evidence of (the Department of Human Resources') need for service between September 1976 and September 1977." The Court held that the Commission could, but need not, reopen the record on the issue of DCMT's fitness, and that the Commission should make an initial determination as to whether DCMT was statutorily barred from exercising the authority it had requested in its application as a result of having had its corporate charter revoked by the District of Columbia.

In Order No. 2009, with respect to DCMT, the Commission found that the revocation of DCMT's corporate charter renders DCMT unable, as a matter of law, to perform the duties of a carrier subject to the Compact. The Commission also determined that no further action regarding the issue of fitness was appropriate, and that the initial finding that DCMT is unfit is administratively final.

In its application for reconsideration, DCMT asserts that the Commission (a) violated applicant's fifth amendment rights concerning

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1/ See Order No. 1749, served September 16, 1977.

deprivation of property without due process of law, (b) acted contrary to the Compact, (c) "violated" the Court of Appeals' memorandum and (d) acted outside the scope of its jurisdiction by interfering with the relationship between a carrier and the D. C. Department of Human Rights (sic), which administers a medicaid program established by federal statute.

The Commission has not changed its finding that DCMT is unfit to operate pursuant to Title II, Article XII, Section 4(b) of the Compact. That issue was decided in Order No. 1749, served September 16, 1977, after two public hearings and was affirmed in Order No. 1769, served November 16, 1977, making the decision administratively final. Although the Court of Appeals remanded the entire record in the consolidated cases, it specifically held that "[t]here is no question on this record that D. C. Medicaid was given adequate notice that it was required both to demonstrate its financial viability and its access to a van available for commercial purposes. The Commission afforded D. C. Medicaid two opportunities to demonstrate its fitness, and we see no reason to compel the Commission to provide a third." 2/

With respect to DCMT's loss of corporate status, the Commission received the information from the Office of Recorder of Deeds, D. C. Corporation Division, in a certificate under seal, dated May 18, 1979. DCMT's Articles of Incorporation were revoked on September 12, 1977, four days prior to the Commission's finding that DCMT was unfit to operate. The revocation is a public record, and clearly speaks for itself. According to D. C. Code (1973 Ed.) Section 29-938(c) a corporation whose charter has been revoked shall be deemed to have been dissolved without further legal proceedings and each such corporation shall cease to carry on its business. Even if the Commission had found DCMT fit to operate, we believe that its loss of corporate status would prevent us from granting it authority anyway. Any quarrel DCMT has with respect to the revocation should be addressed to the Recorder of Deeds office.

The other issues raised by DCMT in its application for reconsideration are outside the scope of Order No. 2009 and therefore will not be given consideration. 3/

Having considered DCMT's application for reconsideration, the Commission finds that Order No. 2009 is consistent with applicable law and that no proper or sufficient cause appears for granting the relief sought. Accordingly, DCMT's application will be denied.

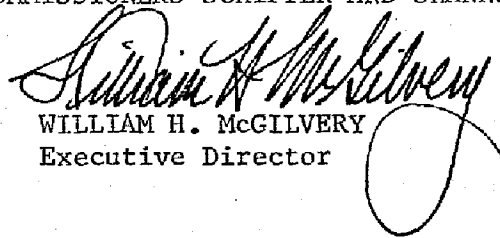
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2/ D. C. Medicaid Transportation, Inc., et al. v. Washington Metropolitan Area Transit Commission, No. 78-1021 (D.C.Cir., June 15, 1979, not printed) p. 9.

3/ See Commission Rule No. 28.

THEREFORE, IT IS ORDERED that the application of D. C. Medicaid Transportation, Inc., for reconsideration of Commission Order No. 2009 is hereby denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS SCHIFTER AND SHANNON:

  
WILLIAM H. MCGILVERY  
Executive Director

